

Affidavit of Fact

State of Alaska

County of 3rd Judicial District

BEFORE ME, the undersigned authority, on this day personally appeared Jane McHan, who being by me duly sworn, did depose and state upon oath as follows:

1. My name is Jane McHan. I am over twenty-one years of age and am fully competent to make this affidavit.
2. Except where stated that I have been told by someone else, I have personal knowledge of all the facts set forth herein, and all such facts are true and correct.
3. I am a licensed clinical social worker with over 23 years' experience in working with individuals with medical, psychological and social problems. I have received specialized training in mitigation investigation for death penalty cases.
4. I was court appointed in federal habeas as a mitigation specialist on behalf of John Balentine, under the supervision of his attorney, Lydia M.V. Brandt.
5. In the course of my investigation, I have reviewed those records of Mr. Balentine which could be obtained, including medical, psychological, educational, employment, arrest and incarceration records. It should be noted that there were many records pertaining to Mr. Balentine's early life which have been destroyed and are no longer available. Most significantly, I have been unable to obtain detailed educational records which could have shed some light on Mr. Balentine's possible learning problems during his school years, as it is indicated on his transcript that he received Special Education Services. I have also been unable to obtain detailed records of mental health treatment or services provided by the Juvenile Justice system in Arkansas.
6. Further, in the course of my investigation, I have interviewed the following individuals:
 - John Balentine
 - Clara Smith, Mr. Balentine's mother
 - Eric Smith, Mr. Balentine's half-brother
 - Patrick Smith, Mr. Balentine's half-brother

McHAN AFFIDAVIT

- Lynn Rowe, Mr. Balentine's half-brother
- Ora Lee Williams, Mr. Balentine's maternal aunt
- Bessie Jackson, Mr. Balentine's maternal aunt
- Angelina Watson, mother of Mr. Balentine's oldest son
- Angelique Allen, friend, former common law wife of Mr. Balentine's brother, Freddie Balentine
- Becky Templeton, Mr. Balentine's Special Education teacher
- Helen Lewis, Special Education teacher who knew Mr. Balentine
- Lt. Charles Vaughn, CID, Jackson County, AR, Sheriff's Department
- Kathy Garrison, investigator
- Professionals at various agencies serving Mr. Balentine

I have been unable to contact Mr. Balentine's other siblings, Freddie, Doris, and JoAnn, although numerous attempts have been made over several months. I have made attempts to contact other individuals who knew Mr. Balentine during his life, but have had difficulty locating them or speaking with them. I have had ongoing consultation with Mr. Balentine's attorney, Lydia Brandt, to share information and to discuss the needs of the case.

7. It is the usual custom and practice in a death penalty case for a mitigation investigation to be performed as early as possible from the time of the client's arrest and of the indication that the death penalty will be pursued. A thorough mitigation investigation involves approximately 300 hours of effort, or more, as each contact leads to new contacts and new questions which have to be addressed. Many hours are needed with the client and family to establish trust and rapport and to address hidden issues which do not often come up until a strong relationship is established. Many hours are needed to research, obtain and review records. Additional hours are needed to locate contacts recommended by other contacts. Consultation with the attorney is imperative, to share information and to plan for the trial. A comprehensive social history must be developed and mitigation themes explored. Because my work in this

McHAN AFFIDAVIT

case has come several years after Mr. Balentine's trial, witnesses and records have been lost. Kathy Garrison, the investigator hired by Mr. Balentine's trial lawyers, did not begin her mitigation work until the eve of trial. It is impossible to complete a thorough, appropriate and comprehensive mitigation investigation at the last minute. A great deal of lead time is needed prior to trial to locate witnesses and records, to make contacts and follow up on contacts, to establish relationships and explore all leads. Delays naturally occur when one is attempting to reach people and to deal with agencies. It is imperative to have plenty of time to allow all contacts to be made and developed. Had a thorough mitigation investigation been performed at the outset, personal interviews with many of Mr. Balentine's family, friends, acquaintances, agency personnel, and other knowledgeable persons would have been much more likely and more fruitful. After the passage of time, an individual's memory and sense of urgency diminish, and important information is lost. As previously indicated, many of Mr. Balentine's records have been destroyed. Some individuals who could have shared insights about Mr. Balentine have not been located or do not have clear memories any longer.

8. I contacted Kathy Garrison, the investigator for Mr. Balentine's trial attorneys. She told me, "There really was not much mitigation in this case." It does not appear that any effort was made to address mitigating factors for Mr. Balentine. To the contrary, I believe that there were many significant mitigating factors which should have been brought to the attention of the jury in the penalty phase of Mr. Balentine's trial. Had the jury heard the complete story of Mr. Balentine's life, I believe that there would have been a great likelihood that he would have obtained a life sentence instead of death.
9. As detailed in Exhibit 1, mitigating factors are as follows:
 - **Poverty**—Mr. Balentine grew up in an impoverished background, where his basic needs were not consistently met. There was not always enough food for the seven children living in a small three bedroom house. Mr. Balentine's mother refused to take "welfare." She often worked two jobs, which left her children unsupervised and out on the street for hours at a time. During some of Mr. Balentine's early years, the older children took care of the younger ones when there was no adult in the home. The neighborhood was a poor one, overflowing with crime and drugs.
 - **Environment**—Mr. Balentine's neighborhood during his growing up years was "drug infested," according to Charles Vaughn of the Sheriff's Department. He described the neighborhood as "the worst in Newport" and "not a place I would want to live." Crack and marijuana were openly

McHAN AFFIDAVIT

sold on the streets; there were shootings, burglaries and robberies. Mr. Balentine reported being bullied by older children in the street. Several others reported that Mr. Balentine lived in a dangerous neighborhood as a child.

- **Parent With Limited Abilities**—Mr. Balentine's mother, Clara Smith, also grew up in an impoverished situation. She was the eldest of eight children and her own mother died when she was about 11 years old. Ms. Smith dropped out of school in the ninth grade due to her pregnancy with Mr. Balentine's oldest half brother. Ms. Smith then married two abusive men in succession. She often maintained two jobs and was not able to supervise her large family due to her absence from the home. She was involved in the car accident which took her first husband's life. She was thrown from the vehicle and suffered head and facial injuries. Her son, Patrick Smith, stated, "She has never been the same since the accident. I have observed that her mental perspective seems to be blurred." My own experience in talking with Ms. Smith on several occasions is that she tends to be confused and has difficulty following a conversation.
- **Violence and abuse**—Mr. Balentine was a victim of violence and abuse, as well as a witness of both. His father, James Balentine, assaulted Clara Balentine Smith on a regular basis, beat her, pushed her down, and blackened her eyes. James Balentine was a heavy drinker, exacerbating the violence. John Balentine and his siblings observed their father's abuse of their mother, but were fearful to intervene. After John Balentine's father was killed in a car accident, John's mother married another abusive man, George Smith. Mr. Smith demonstrated violence toward his wife and stepchildren. He cursed them, talked down to them, goaded them to get physical with him, sent them out of the house onto the street, and generally made their lives miserable. George Smith got into physical altercations with John Balentine. When Smith was beating their mother, the children attempted to stop him and were physically assaulted themselves. Mr. Balentine was exposed to violence by another relative, Kenneth Russell, who was married to one of his aunts, Ora Lee Williams. Russell was a crack addict with a violent temper. He beat his own wife and children, which Mr. Balentine observed. Russell also beat other children who happened to be in his home. According to his ex-wife, Russell "thought children deserved to be beaten for anything they did wrong." Mr. Balentine stated that Russell beat him so severely for wetting the bed, when he was about ten, that he was unable to walk afterwards. Mr. Balentine was bullied and terrorized by older boys in the neighborhood when he was a child. Mr. Balentine was beaten by adults in authority when he was institutionalized. His brother, Eric Smith, described seeing Mr. Balentine with "large knots on his head, like cartoon

McHAN AFFIDAVIT

knots, with the skin peeling back and the knot coming through," when he was arrested at age 17. Eric Smith reported that Mr. Balentine told him that the people in the "mental thing" whipped him all the time with a paddle or a belt.

- **Overwhelmingly Negative Male Role Models**—Mr. Balentine's father died when Mr. Balentine was a young child. Mr. Balentine's mother had other men in the home who were negative role models, including George Smith, who was verbally, emotionally and physically abusive. Mr. Balentine's uncle, Kenneth Russell, was an abusive crack addict. Another uncle, John Balentine, attempted to sexually assault Mr. Balentine when he was seven or eight years old.
- **Medical Issues**—It is reported by Mr. Balentine and corroborated by several family members that he fell and hit his head on the concrete at about age 6, and was subsequently unconscious. He remembers waking in his mother's house, feeling dizzy and disoriented, with a headache, and falling back into a sleep until the next day. He never received medical treatment. He wet the bed until about age 10 and was seen at least once for a kidney infection. The family was reluctant or financially unable to seek medical care. Eric Smith related a story in which Mr. Balentine sustained a deep cut on his face from a flying rock while mowing the lawn. When asked if Mr. Balentine needed stitches, Eric stated, "We don't believe in stitches. Seriously, we just didn't go to the hospital for anything."
- **Learning Problems**—Mr. Balentine was slow to talk and received speech therapy as a child. His mother stated that he stuttered badly until he was about five years old. Mr. Balentine stated that people had a difficult time understanding his speech. He was later in Special Education in school, attending the "Resource Room" for English and math through most of high school and a "Learning Disabilities" classroom for English during his eleventh grade year. Becky Templeton and Helen Lewis, teachers who knew Mr. Balentine, confirmed that he had a learning disability. They stated that he had difficulty with math and reading, as well as demonstrating impulsivity, poor decision-making, and difficulty thinking about consequences of his actions. Although they felt that the school program addressed his academic shortcomings, they were not convinced that he had been helped with other issues. Mr. Balentine dropped out of high school in the eleventh grade. He stated that he always felt that he was behind. He stated that he thought he was stupid because he was in Special Education.

McHAN AFFIDAVIT

- **Family History of Learning Problems**—Mr. Balentine's older brother, Lynn, was considered a "slow learner" and attended a special rehabilitation school. Mr. Balentine's brothers, Lynn, Freddie and Eric, all dropped out of school. Eric Smith stated that he believes that he (Eric) has a learning disability, but when he asked for help at school, he was told he was "lazy" and no help was offered. He stated that his mother "was non-confrontational and wouldn't push the issue" with the school and so he did not receive any assistance. Ms. Smith has stated that she believed that her sons were "lazy" and did not like school. It does not appear that she had a clear understanding of her children's, nor did she make any effort to help her children address their deficits in learning.
- **Emotional Problems**—Mr. Balentine has been described as "goofy" by numerous people who know him well. He would reportedly laugh all the time, even when laughter was not an appropriate response to a statement or a situation. His mother stated that he "was this way since he was little." His teacher stated that he had "a strange sense of humor." Mr. Balentine reported seeing ghosts in his home as a child and that the ghost of his father sometimes inhabited his body. Eric Smith reported that Mr. Balentine, as a teenager, ran completely through a door in a panic, even though no one was chasing him. His mother "was scared he would flip out and sent him to the mental health clinic in Newport," according to Eric Smith. Mr. Balentine reportedly attended counseling at the clinic for about six months, but no records could be found.
- **Distrust of Official Authority**—the family was reluctant to call the police or other authorities if there was a problem. There was and is no trust in the police or the system to handle issues appropriately. Abuse was suffered at the hands of several men with no intervention. When George Smith was seen in a car with another woman, Clara Smith took a gun and shot out the windshield. When Mr. Balentine's sister, Doris, told her brothers that George Smith had raped her, they had bats and sticks ready to beat him up, rather than reporting the assault. When Mr. Balentine was a teenager, he and his stepfather had physical altercations when they had disagreements. If someone took something from one of the family, he went to get it back or to fight about it. The police were regarded as "racist" and "would not help anyway." Ms. Smith relates an incident in which a "drunk man" was trying to get into her house and "the police wouldn't come."
- **An Immature Sense of Unfairness and Victimhood**—Mr. Balentine is described by Helen Lewis as having "his own sense of justice. If something was unfair, it seemed to disturb him more than it did others."

McHAN AFFIDAVIT

When his mother remarried, John felt this was a betrayal of his father. If something was wrong, his mother stated that he wanted to make it right. He was concerned about others being treated badly. Angelique Allen stated that Mr. Balentine could not understand why his brother, Freddie, would not take more responsibility for his family. Mr. Balentine tried to look after Angelique and her children because his brother would not.

- **Skills**—By all accounts, Mr. Balentine was a gifted mechanic and handyman. He could “take a car apart with his hands and put it back together with duct tape,” according to his half-brother, Patrick Smith. Others reiterated that Mr. Balentine could fix anything on a car. He kept his mother’s car running for her and helped others when they had car trouble, often donating his services. He was also adept at repairing small appliances and would repair his mother’s stove or vacuum cleaner if needed. He worked around her house, fixing her cabinets and painting for her. He did lawn work and carpentry work for others. Angelique Allen reported that John worked on her car regularly and would not accept payment. At the time of the offense, he was living in a small house for free in exchange for repairs.
- **Racism in the Community**--The African American family members who were interviewed held strong beliefs that Newport was and is a very racist town. Blacks and whites live in separate parts of town and according to Patrick Smith, “it is very difficult for a Black person to get a good job or even an interview for a good job.” Interviewees felt that Blacks were primarily seen as potential trouble makers and that “it was just expected that we would be in trouble.” The African American family members also believe that the KKK is still active in town and it is known that the organization did, in fact, hold a rally there a few years ago. Mr. Balentine stated that “Black people were just told to stay inside that day.” His mother believes that the police beat Mr. Balentine when he was handcuffed outside Walmart at age 17, accused of breaking in. She stated, “There was blood behind Walmart where they beat him.” She believes this was racially motivated.
- **Threats to His Life**—the victims had threatened to kill Mr. Balentine and he was afraid that “something bad was going to happen.” He was fearful that they would kill him or attack others, including Angelique Allen and her children. Angelique Allen has first hand knowledge of threats toward Mr. Balentine: “Several days prior to the shootings, I went to Misty Caylor’s house to look for John to help me with a car problem. John was not there, but I saw Mark Caylor. He was threatening to hurt John. He told me, ‘Hell, no, that mother fucker ain’t here. You tell him when I see

McHAN AFFIDAVIT

him, I got something for him. I'll kill him.' He showed me a gun. He did not threaten me, but I was scared just from seeing the gun in his hand."

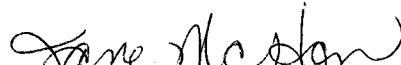
- **Positive Characteristics**—Mr. Balentine was reported to be a friendly person, with a good sense of humor. He was kindhearted and helpful to others, fixing cars for people, babysitting their children and assisting with repairs and chores. It was reported that he was very good to Misty Caylor's baby and helped take care of her. Angelique Allen stated that Mr. Balentine was always very kind toward her children and treated them very well. "He treated me better than his brother [her common law husband, Freddie Balentine] did. He always wanted to know if I was all right, if I needed anything." Mr. Balentine's aunts reported, "All of us loved him. He was always very respectful to us." Becky Templeton and Helen Lewis, teachers at Newport High, reported that he was not a problem in class and was always respectful toward them. Ms. Templeton described him as "a sweet boy, not a bad person."
- 10. If I had been working on Mr. Balentine's case at the trial level, I would have recommended the following witnesses in mitigation:
 - **Clara Smith**, Mr. Balentine's mother, to discuss his early life, the family's hardships and abuse, the head injury incident, and examples of his respectful and loving behavior toward her, his grandmother and aunts. Mr. Balentine's mother's presence on the stand would demonstrate her love for him, but would also expose the jury to her limitations and grant them better understanding of his upbringing.
 - **Mr. Balentine's half-brothers, Eric Smith and Patrick Smith**, and his **aunt, Ora Lee Williams**, to corroborate information about the family's life in Arkansas, including poverty, violence and abuse. They would also be able to discuss Mr. Balentine's abilities and positive characteristics as experienced by the family.
 - **Angelique Allen** to discuss Mr. Balentine's positive characteristics, as well as to discuss her knowledge of threats made against him.
 - **Lt. Charles Vaughn** to describe the neighborhood of John's childhood, one infested with drugs, violence and crime.
 - **Mr. Balentine's teacher, Becky Templeton**, and her colleague, **Helen Lewis**, to explain the Special Education program, how a child qualifies for services, to discuss the nuances of learning disability and how Mr. Balentine's life and education were affected by his disability, the attempts that were made to address his deficits, and how his limitations affected his

McHAN AFFIDAVIT

thinking and behavior. They would also be able to discuss Mr. Balentine's respectfulness toward them and his good behavior in class.

- A psychologist to further address and explain the issue of learning disability, as well as to tie together all of the outlined mitigating factors in Mr. Balentine's life. The psychologist would explain to the jury the effects of multiple, severe stressors during a child's development and throughout a person's life. Within the context of Mr. Balentine's life and experiences, the psychologist would walk the jury through an explanation of why he behaved the way he did. A psychologist would also discuss the issue of future dangerousness to help the jury understand the low risk of allowing Mr. Balentine to live in prison instead of giving him death.
- Additionally, if this work had been done properly at the time of trial, there would be other possible witnesses from Arkansas and Texas who could have testified, but have been impossible to locate at this late date.

FURTHER AFFIANT SAYETH NOT.



Jane McHan, LCSW

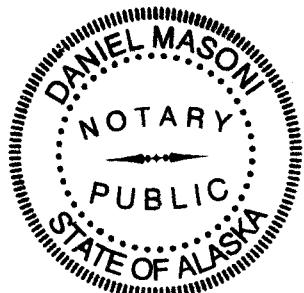
PO Box 921169

Dutch Harbor, AK 99692-1169

(907) 581-7112

Before me, a Notary Public, on this day personally appeared Jane McHan, known to me (or proved to me on the oath of _____ or through identity card or other document) to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this 16th day of August, 2004.



Daniel Mason
Notary Public
my commission expires:
06/05/06

SOCIAL HISTORY
John Lezell Balentine
DOB: 1-30-69
SSN: 429-15-7848

John's Mother, Clara Mae Rowe Balentine Smith:

Clara Mae Rowe was born on 8-6-49 to Leopher Simmons and Izell Rowe in Augusta, AR. Her parents are both now deceased. Mr. Rowe died of a stroke at age 49, around 1979. He was reportedly an alcoholic. Ms. Simmons died in childbirth in 1960, cause uncertain.

Clara is the oldest of eight children. Her siblings are:

Bessie Mae Rowe
Ora Lee Rowe
Johnny B. Rowe
Gloria B. Rowe
Mary Ann Rowe
Gladystine Rowe
Carol Lee Rowe

According to Clara, all are still living and in relatively good health.

Clara grew up in Newport, AR. She attended local schools until the 9th grade, when she dropped out due to pregnancy. She had her first son in 1964, at age 15.

Lynn Ray Rowe:

Lynn was born on 3-15-64. He was considered a "slow learner" and went to a "special rehabilitation school" in Hot Springs, AR. He stated, "I just didn't want to do the work. I regret it now and wish I could go back and do better." He attended the Job Corps in Little Rock. He has worked at several restaurants, including Kentucky Fried Chicken for six years and a steakhouse for four to five years. He now works at the Curtner Lumber Company as a machine operator. He has been there about seven years. Lynn lives with his girlfriend, Euniece Jarrett, in Newport, AR. Lynn has one daughter, Laticia Lynn Reed, who lives in Louisiana.

John Balentine's father, James Henry Balentine:

James Henry Balentine was born in Jackson County, AR, on 9-14-34. He had a twin brother, John. Their parents were Rosa Craven and John Balentine. John Balentine, our client's grandfather, died in the 1970's, cause unknown. Rosa Craven Balentine lived to be 92 years old and died of stomach cancer about two years ago. John Balentine, James' twin, died of throat cancer when he was in his 50's.

In seeking records for our client, John Balentine, Kathy Garrison, an investigator for John's trial attorneys, received medical records for John's uncle, John Balentine, from the Newport Hospital. They indicated that John's uncle was seen in the Emergency Room on 7-11-03 after being transported by an ambulance. Mr. Balentine was complaining of pain in his throat and reported having surgery for throat cancer at an earlier date which he could not remember. He appeared to be under the influence of alcohol. Nurse's notes indicate, "Patient ETOH. Pt. states he wants a pain pill and we are takeing (sic) to (sic) long. Pt. left then came back started talking nasty to me. A taxi was called for pt but he refused taxi. I called police because I was not comfortable with the way he was talking to me. Police came up then pt left walking." Records indicate that Mr. Balentine was 57 years of age at the time. He was on Medicaid.

James Balentine attended schools in Newport, AR until the 8th grade, when he dropped out. According to Clara Smith, "His mama told me that the school had to call the police every Friday evening to escort [James] off the school grounds for fighting."

James worked as a bricklayer during the daytime and "carried mail in big trucks in Little Rock at night," according to Clara Smith. She described him as a hard worker. He had a drinking problem as long as Clara knew him. He was never in trouble with the law as an adult, except where drinking was involved. Clara stated that he "got stopped on the highway for drinking and driving three or four times while we were together." She stated that he would typically spend a night or two in jail. She does not remember if he ever went to court. She does not think that his license was ever revoked. James died in a car accident in 1971.

Clara Rowe and James Balentine/abuse and alcoholism:

Clara and James were married on 2-25-65. Clara described her deceased husband as "having a real hot temper." She stated that he "had been in a lot of trouble himself" before she knew him. "He was very abusive, beat me all the time, gave me black eyes, pushed me down and slapped me in the face." This happened about once a week, usually on the weekends when he would start drinking. She stated that he did not drink during the week, but drank "a lot" on the weekends, mostly whiskey or wine.

According to Clara, James was never abusive toward the children, that he "was crazy about the kids," but she stated that they did witness his abusive behavior toward her on many occasions. "The kids saw him hit me." She stated that the children did not try to help her because they were probably afraid of him. Lynn Rowe recalled that James Balentine "had a hot temper," and "would whup your butt if you did something wrong." Clara's youngest son, Patrick Smith, stated, "My mother told me that John's father was very abusive toward her, beat her a lot."

Clara and James remained together until he died in a car accident in December of 1971. She was with him in the car and thinks that he fell asleep at the wheel. She was hospitalized for about a week. She stated that, at first, it was suspected that her back was broken, but it was not. She had injuries to her head and face. "Even three years after the

accident, some pieces of glass were still coming out of me." There are varying stories about how the car accident occurred, with others reporting that James was drinking at the time of the wreck.

Patrick stated that his mother "has never been the same since the car accident." He stated that other family members, especially his now deceased grandmother, told him that "it took something out of her." He stated, "Her mental processes seem to be blurred. She cannot remember family members, people's names. Sometimes she will just stare into space." Patrick still lives with his mother, partly because he believes that he needs to help take care of her.

Clara and James Balentine had four children, Doris, John, Freddie and Joann.

Doris Helen Balentine:

Doris was born in Newport on 10-17-66. She is also known as "Ann." She completed high school in Newport, AR and attended some college classes in Russellville, AR, but did not finish. She is currently married to a man named Ron Cash and they live in the Houston, Texas area. Doris has three children from a previous marriage, Bruce, Erica and Antoinette. I have been unable to reach Ann or to have her return my calls. According to other family members, Ann has not had any known medical, mental health or learning problems. I have been unable to contact Ann and she has not returned any calls.

John Lezell Balentine:

John was born on 1-30-69 after a full term, uneventful pregnancy. He was born in the Newport Hospital with Dr. Green in attendance. John weighed 8 lbs., 6 oz. and was 19 inches long at birth. His mother reported no complications with labor or delivery. He had a "big head" according to his mother, but "looked fine" and did not have any medical complications at birth. Mother and baby came home in the typical time frame; neither needed additional treatment or observation. John was healthy as a baby. John had difficulty talking and did not speak well until he was about five years old. "He stuttered quite a bit when he was young." Otherwise, his mother did not recall any developmental delays. John's additional history will follow throughout this report.

Freddie James Balentine:

Freddie was born in Newport on 4-20-70. Freddie had school problems, but his mother is not exactly sure what those problems were. She thinks he "was lazy." Freddie and John were in trouble together from an early age. Teachers from the Newport High School, Helen Lewis and Becky Templeton, both noted that Freddie seemed to be the instigator on many occasions in which he and John got into trouble with the law. Freddie quit school in the 11th grade and was serving prison time for assaulting his girlfriend when I first began working on John's case. He was later released and reportedly readmitted for violating his parole. The most current information from family members has Freddie back out of

prison, but his whereabouts do not seem to be known. It was reported that he was in Newport, but his mother and brother, Patrick have stated that they have not seen him. Freddie may have obtained his GED in prison. He had a common law relationship with Angelique Allen in Amarillo, Texas and has a daughter with her. According to Angelique, "John always treated me better than Freddie did."

Rosie Joann Balentine:

Joann was born on 5-16-71. According to her mother, she was a sickly child, whose "legs hurt all the time." She graduated from high school in Newport, AR. She now lives in the Houston, TX area. She has worked in restaurants and a nursing home. As an adult, she was diagnosed with lupus and is attempting to qualify for Social Security Disability. She lives with her boyfriend, Kevin, who works for Chili's. Joann has one daughter, Carlisa Pittman, who is about 14 years old. I have been unable to contact Joann and she has not returned any calls.

John's early years:

When John was two years old, he stood next to his father's casket, peering in at the dead body. John recalled this scene as his earliest memory. Later, when John was seven or eight years old, his siblings told him that his father was not actually killed in the accident itself, but that "the jaws of life were used and they cut his head off." John stated that he is not sure what really happened, but the image has stayed with him.

John has no memories of his father while he was alive. There was a picture at John's grandmother's house, of himself and his father standing together, but John doesn't remember the picture being taken. He was told by others that his father "drank a lot and drove fast, that's why he died."

John "barely saw" his mother, Clara Rowe Balentine Smith while he was growing up. She worked at least two jobs all of his life. "When we went to school, she was asleep. When we got home, she was at work. She did house cleaning and worked at a nursing home. She had no days off."

After her husband's death, Clara Smith began seeing a man named Mr. King. John described him as "a fling after my father died." John remembered, "Mr. King used to spend the night. I would be at the [bedroom] door, beating on it, telling him to get out, at 12 at night, when he was asleep."

When the children were small, they stayed with Clara Smith's grandmother, Albertha Rowe. Later, the older children looked after the younger ones while their mother was working. They were often unsupervised by an adult. Clara's sisters, Carol Lee and Ora Lee, stayed with the children once in a while, till John was about 8 years old. After Clara remarried, the children stayed by themselves if their parents were not at home. There were many hardships while the widowed Clara tried to raise her five children alone. Although there is no doubt that Clara was a hard worker and did all that she could to take care of her family, she was absent from their lives from the time that they were quite young. They were left to fend for themselves in the house and on the streets of Newport.

When Clara was at home, she was exhausted and unable to provide them with direction and supervision. Although she is described as a sweet and caring woman, she was overwhelmed with her daily responsibilities and unable to provide John with the structure and supervision that he needed as a young child.

Clara Balentine and George Tyson or Smith:

Clara married George Henry Smith or Tyson on 5-20-80. She stated that he was using the name "Smith" at the time, so that is why her name is Smith. She later found out that his real name was Tyson, along with many other revelations about him, including "that he might have shot a preacher before I knew him."

Clara and George had two sons, Eric and Patrick.

Eric Ontario Smith:

Eric was born on 11-5-75. He dropped out of high school in Newport, AR, in the 11th grade. His mother described him as "lazy and didn't like school." However, Eric stated that he believes that he has learning problems and that school was always very difficult for him. He asked for special help at school and was turned down because the school officials "thought I was trying to get out of work." He explained that his mother would not fight for him to receive services because she "was non-confrontational and wouldn't push the issue with the school."

Eric moved to Amarillo, Texas, in 1995, after visiting his half-brother Freddie there. Eric has been married to Lisa Smith since 7-23-00. They have a son, Kobe Smith, who was born on 5-16-01. Lisa's two children, Brianna Taylor, age 12 and Devonte Taylor, age 11, also live with them. The Smiths own a beauty shop, which Lisa runs, called Salon X Quisite. Eric works for Rucker Steam Cleaning. Theory Rucker, who is a cousin of John's on his father's side, owns the steam cleaning company.

Eric obtained his GED in 2001 and is attending Amarillo College to work on a masonry and framing technical degree.

He has three other children who do not live with him at this time. Eric Smith, Jr., born on 11-11-96 and Letron Smith, born on 8-8-97, live in Amarillo with their mother, Devonda Patterson. Eric maintains contact with them and sees them regularly. Katara Bell, born on 3-22-98, lives in Houston with her mother, Ynette Bell. Eric has not seen her in about a year, but sends money to his sisters who make sure that she is taken care of.

Patrick Tyrone Smith:

Patrick was born on 8-15-84. He lives with his mother and graduated Newport High School in 2003. He is the first of John's brothers to finish high school. He is working for Maytag, assembling washers and dryers. He has attended one semester of college and is interested in aviation. Patrick believes that his older brothers had to struggle quite a bit, and he has seen some of the problems they

have faced. He is doing his best to make a better life for himself and tries to help his mother as much as he can.

Physical and emotional abuse by George Smith:

When Clara remarried, she chose to bring another abusive man into her home. By all accounts, Smith was not a positive role model or father figure for John and his siblings. John described him as “a worthless piece of crap.” John remembered seeing his mother with “a black eye, a busted lip,” from regular beatings by Smith.

Less than a year after their marriage, Clara packed up her children and moved to Little Rock to escape Smith’s abuse. The family stayed with Clara’s sister, Ora Lee for a time. However, Ora Lee’s husband, Kenneth Russell, was a “crackhead” and an abuser himself. John reported that Russell beat him for wetting the bed while they were staying at Russell’s house. John stated that he was beaten so badly that he couldn’t walk. After the beating, Clara obtained a small apartment in Little Rock, where the family lived for a short time.

Returning to Newport after a few months, Clara discovered that George Smith had a girlfriend. According to John, his mother shot a gun at the girlfriend but didn’t injure anyone. John reported that, several years later, his mother shot out the windshield of a car in which George Smith and another woman were driving.

Ora Lee Williams, Clara’s sister, stated, “[Smith] had a mean, dominating spirit. A lot of trouble started when he moved in. He was negative toward the kids. He was abusive. The boys didn’t get along with him. He would curse at the kids, call them names, talk down to them. He got into it with them constantly, arguing, cursing and putting them out [of the house].” Ms. Williams remembered that John did not get along with his stepfather. “A lot of the boys didn’t get along with him [Smith]. One or two times, he [Smith] got into it physically with John and Freddie. I think one time he [Smith] jumped on their mom and the boys tried to get into it to stop him. He took my sister’s new car and traded it in on a truck for himself. He manipulated her into signing the papers. Clara was afraid of him and wouldn’t say much to him. She kept quiet about it; didn’t want us to know.”

Clara Smith stated that George Smith “didn’t hit them [the children] much, just treated them mean. He aggravated them, acted snobby to them so they would get mad and come at him. He argued with the kids. He and John did get into it physically a couple of times when John was a teenager. Once, George Smith called the police on John because he was afraid of John. The police came and told John to leave the house for awhile” so Smith would calm down.

Lynn Rowe, John’s oldest half-brother, stated, “No one liked George Smith too much. He thought he ran everything. He was ‘slick’ and took advantage of people. None of the kids liked him when he was with our mother. He and John did not get along. They got into it physically a couple of times.”

Patrick Smith stated that his mother and others have told him that his father had "altercations" with John. Patrick stated that he does not know all the details, because "they try to keep that from me." Eric Smith stated, "John did not get along with my dad. My dad was only there off and on. The other kids did not like having a stepfather. Sometimes they would get along okay and then they would fall out once in awhile. They [John and Smith] would get into a physical fist fight a couple of times a year."

John remembered that George Smith pulled a gun on him when he was about 15. On another occasion, Smith gave John a sawed off shotgun he found on the road when he was working for the highway department. John stated that Smith once bought two motorcycles and "gave one to Freddie, trying to be his friend." Smith reportedly "stole" John's brother Lynn's girlfriend. He reportedly tried to "talk to" one of John's girlfriends on another occasion and John stated he "would take care of him" if he tried to steal his girl.

Later, John suspected that Smith may have been sexually abusing John's sister, Doris (Ann). John stated that Smith bought her a car, something he would not have done for any of the other children. When asked why he thought Smith was abusing Ann, John stated, "they acted like they were married, fussing and fighting all the time." Ann was somewhere between 16 and 18 years old. On one occasion, she wanted her brothers to beat Smith up "because he raped her." John stated, "We didn't take much convincing. We all hated him. We had bats and sticks, but he never came home that night" until after Clara arrived home. None of the abuse or rape was ever reported to the authorities. There was no trust in the police or other agencies to help the family and they preferred to keep their problems to themselves.

Bessie Jackson, Clara' sister, stated that she "heard that George Smith was abusive. When I was around him, he didn't look like the kind of person I would want to be a father to my children." She explained, "He was not the person that my sister thought he was at first. Nobody was happy with him. He did not respect my sister. He acted negative, was always talking a person down, was not encouraging to the kids." Ms. Jackson never observed any abuse first hand. "You know how people like to keep that quiet." She stated, "He would fake his personality when we came to visit from out of town, try to be nice around us. But my sisters who lived in Newport would tell me that he was faking it and that he was not really very nice to anyone." She believed that he was primarily verbally abusive toward the children, yelling at them, talking down to them, ordering them around and so on. She heard from her other sisters that he would beat John's mother.

Clara divorced George Smith in 1992, after many years of continued abuse. Clara states that George loves his kids and still sees them when he can.

George Smith worked for the Highway Department for several years. He is currently on disability due to a work related accident. According to Clara, George got into a disagreement with his supervisors about job issues. He threatened to use the NAACP against them and someone "rolled a bunch of pipes in front of him" while he was

working out on the road. He was injured by the pipes hitting him and has not been able to work since then. Clara believes that this was done to George on purpose.

Clara Smith today:

Clara obtained her GED in 1970. She worked at Regional Health Care Nursing Home as a nurse's aide for 37 years. She had a heart attack two years ago and is now on Social Security Disability. She and her youngest son Patrick live in her ex-mother-in-law's home in Newport.

According to Patrick, their mother "has never been the same since the car wreck." He stated, "I did not know her before the wreck but everyone says she changed a lot after that. It took something out of her." His deceased grandmother would especially tell him that his mother was not the same after the accident. When asked to describe how his mother had changed, Patrick stated, "Her mental perspective is blurred. She can't remember family members or people's names. Sometimes she will just stare into space. It is hard but I try to deal with it the best that I can. She is my mama and I love her. That is why I stick around here and try to help her."

In several phone conversations with Clara, it was evident that she had difficulty following a conversation and remembering events from the past. She admitted that her memory was "poor," but couldn't determine when she began to have memory problems. Helen Lewis stated that Clara has been under a great deal of stress since John's arrest. Although Clara appears to be a caring person, she does not seem to be assertive in assisting her children. She stated that she wanted to help John at the time of his trial but she didn't know what to do and no one contacted her to tell her what was needed. She has also experienced a lifetime of poverty, abuse and racism and appears to be quite "beaten down," with little energy to fight the system or the people in it.

John Balentine (uncle): attempted sexual abuse

When John was 7 or 8, he was sleeping with his Uncle John (our client John's father's twin brother) on a pullout couch at John's grandmother's. His uncle woke him up and told him to "pull down his drawers." John shook his head "no." He stated that he was "terrified." His uncle told him two or three times to pull down his pants. John kept refusing. His grandmother came into the room and his uncle stopped. "I laid there and didn't move, I was so scared." His uncle reportedly never tried to assault John again. At the same time, John seemed to feel that he had to take responsibility, stating, "I never put myself in that position again." He stated that he has never told anyone about this incident because he was ashamed and afraid.

Kenneth Russell: physical abuse and drug addiction:

John reported that his aunt Ora Lee's husband, Kenneth Russell, was also physically abusive. John and his family stayed with the Russells during his mother's separation from George Smith. Russell beat John severely for wetting the bed. John stated that he was beaten so badly that he could not walk afterwards. When asked about this abuse, Clara Smith could not remember specifics but stated, "he probably did." Ora Lee Williams also stated "He probably did. He was mean and beat all the kids, his own and

everyone else's. He was abusive to me and my kids; that's why I got a divorce. He believed that you beat kids for everything that they did wrong. Most of the time, he used a belt. If my sisters' kids were around and he thought anyone did anything wrong, he would beat his own kids and those kids, too." John described Kenneth Russell as "a crackhead." Ora Lee Williams agreed. She stated that Russell was a drug addict and used cocaine, crack, marijuana and LSD. He worked for AT&T for 18 years, but lost his job due to his drug abuse. The company sent him to rehab but he came back out and immediately began using drugs again. He did jail time for stealing to support his habit. When she and Russell were divorced, Ms. Williams had to obtain a restraining order against him and he could not visit their children "without a responsible adult along." Russell continues to be a drug addict today and does not hold down a job. Ms. Williams stated that he is homeless or stays with his mother in Little Rock at times.

Family relationships/neighborhood:

John stated that he and his brothers and sisters "fought like cats and dogs." His sister, Doris, would pick on him regularly. In Newport, the family lived in a new, three bedroom wooden house. His father started building it and his mother had it finished after his father died. John stated that it was a pretty nice house, except for the doorframes being torn up and doors being torn off by the kids fighting in the house. They lived in a small neighborhood of about 25 homes, a little community where everyone knew each other. It was called the Robinson Addition and then later renamed the Alcorn Addition. He stated that "the dysfunction was not in the family, it was in the neighborhood." He went on to say that there were lots of bullies in the neighborhood who would regularly harass him when he was little. "The bullies in the neighborhood kicked my butt as long as I can remember. There were no police out there, it was all wild." "If I'd been raised in a different environment, it would have been different." His mother's house had three electrical fires over later years and eventually burned down in 1998. His mother now lives in his paternal grandmother's home in Newport, AR. John stated that his father's mother died and left everything to his mother.

Eric Smith stated that he was fairly young while John still lived at home, but that they "grew up some together." John "didn't get mad about much." He did get in trouble for little things, like stealing a bag of chips or something, "being young in the ghetto." The family did not have a lot of money. Their mother worked four jobs as long as Eric could remember. She cleaned three people's houses and then worked the 3-11 PM shift at a nursing home. She was not at home much. She went into a lot of credit card debt just trying to keep all the kids in school clothes. Eric stated that the kids had to fend for themselves a lot, but they didn't blame their mom because she was working so hard to take care of them. She didn't believe in going on welfare. All the boys "fought each other all the time." He thought this was because they were all together "in that little house." All of the boys shared a room. "Maybe we did not always have enough to eat, but we always had something, even if it was just cereal. A lot of kids had to go on welfare but Mama wouldn't take it."

As a child, John would sit and eat a whole bag of sugar. He stated, "It was as good as candy, and cheaper." While on death row, he stated, "I would still eat it today if I had it."

Eric described their oldest half-brother, Lynn, as "real slow, but he makes do." Eric went on to say that Lynn is "crazy," defined as "he has views on life that are different." When asked what he meant by that, Eric stated that Lynn thinks "like 50 years ago" and "doesn't want to have much to do with people. He gets along with his family but he doesn't want to get to know others or interact with them. He doesn't associate with anyone."

Angelina Watson, mother of John's son, John, Jr., stated that she never knew John "to be around positive people much." She stated that his brothers Freddie and Eric had been in trouble and that his sister, Joann, "doesn't get along with anyone." Angelina also thought that his father's death in a car accident affected John. "There was not a lot of love and affection in his family. He probably didn't get a lot of that. His father was dead; he didn't have good relationships. He comes from a lack of attention and lack of the right element. He was constantly exposed to people thinking he was bad, it was just expected."

When asked about the neighborhood where John grew up, Patrick Smith stated that he is living in the same neighborhood right now and it "is not a good neighborhood at all." "This is a small town and we live on the outskirts of town. This is a very racist town and it is hard to accomplish anything here. Blacks and whites live in separate parts of town. You have to be really strong to make it as a Black person here. The neighborhood has poverty, guns, crime, drugs and violence. It is a typical lower class Black neighborhood. I have seen drug dealers in the neighborhood almost daily. I see them when I go outside, especially after the sun goes down. They are dealing crack and marijuana. I have seen people carrying guns in the neighborhood at least once a week, with shots being fired about that often as well. An acquaintance of mine was shot and killed when he was being robbed last year. I have observed buildings which have been vandalized and broken into. The gas station down the street from my house is a frequent target of robberies. I would estimate that it is robbed about once every three months. There are some gangs in our area." He stated that their life has been hard in the neighborhood. There are not many opportunities for Black people in Newport.

Lt. Charles Vaughn of the Criminal Investigation Division of the Jackson County Sheriff's Department has known John since he was a teenager. Lt. Vaughn described John's childhood neighborhood as "drug infested." "It is a well-known fact that drugs were being sold there and still are to this day, primarily crack and marijuana. It is an unsafe neighborhood. I would not want to live there myself. The neighborhood is a poor one. There are other crimes going on there, such as burglaries, break-ins, drive by shootings, and plain out shootings, the pizza guy got robbed, crack houses there." The community and law enforcement officials were well aware of the reputation of the neighborhood during the years that John lived there. There were ongoing problems throughout John's upbringing. Today, the neighborhood continues to be crime laden. On

the first date that Lt. Vaughn was interviewed, he stated, "We were down there just this morning with two search warrants on a shooting." The population of Newport is currently about 8,000 people. When asked where John's neighborhood ranked in terms of crime and drugs in the city of Newport, Lt. Vaughn stated, "It is the worst neighborhood in town."

Education/Special Education and learning disability:

John attended public schools in Newport, AR. His records, other than a high school transcript, have been destroyed.

John remembers the first day of first grade. On each desk, there was a piece of paper with a child's name printed on it. He didn't realize that his name was "John," as he had always been called "Baby Brother" or "Baby Bro." He took the slip of paper from the top of his desk and placed it inside. His cousin had to tell him, "That's your name." John doesn't remember much about school. "I was just there." He reported one occasion when he was pretending he was Evel Knievel, jumping over desks and "busted my face and lip."

John stated that he was in Special Education "as long as I can remember." He had a "speech impediment" when he started school and people had trouble understanding him. He thinks he was in speech therapy as a youngster, perhaps in first, second and third grades. Because of the speech problem, he thinks that he "fell behind." He stated that he was "always slow." He feels that he was doing pretty well up till 4th grade, when the family moved and he had to start at a different school. According to his mother, John performed fairly well until high school, but she has no specific memories of his grades or activities. His siblings consider him "smart."

In high school, according to Clara, John began "to get into it with his teachers, arguing and causing trouble." His mother stated that John was "real smart, but didn't like school." She does not remember that he was in Special Education.

John's aunt, Ora Lee Williams, remembered, "John had lots of problems in school. He and Freddie were always in trouble for talking back or not doing their work. Their mother was always going up there. I think he (John) had learning problems or a learning disability and he didn't like school. He took a long time to learn to talk, I think, but I can't really remember back that far."

John's transcript indicates that he attended Special Education Resource Room for English and math through the tenth grade. He was in a "Learning Disabilities" English classroom in eleventh grade before dropping out.

Helen Lewis is a Special Education teacher at Newport High. "I met John when he was in the ninth grade at Newport High School. He was in Special Education. Though he was not in my classroom, I knew him well at school. The Special Education classrooms were next to each other, upstairs in the high school. The teachers interacted with all of the students, even those not in our own classrooms. We monitored the halls between

classes and spoke with the students. We shared student-learning materials between our classrooms. I sometimes spoke with John in passing in the hallway and sometimes had more in-depth conversations with him. He would talk about personal things, such as getting into trouble over the weekend or having problems with his stepfather. I would talk with him about how to handle his behavior and encourage him to think things through and make good decisions.”

Ms. Lewis explained the Special Education Program. “In order to qualify for Special Education, a child has to be referred to the Special Education Department because he or she is struggling academically or socially in the regular classroom. Usually, the classroom teacher will make the referral to Special Education. The school counselor and parents are notified of the referral. The Special Education teacher will often go to the regular education classroom and observe the student. Testing is performed to determine if the child qualifies for Special Education. A child may qualify in several different ways: he or she may have mental retardation, a learning disability, emotional disturbances, visual or auditory problems, language problems, or health problems. If a child qualifies for Special Education services in our school, there are several options for services. One is a self-contained classroom, which is typically provided for children with severe mental retardation. One is the Resource Room, which is typically used for children with learning disabilities, language disorders or milder mental retardation and emotional problems. The last is called Indirect, in which the child remains in a regular classroom, with extra help that is coordinated between the Special Education teacher and the regular teacher, including modifications of the student’s work, or finding ways to address different learning styles.”

John was in the Resource Room. Ms. Lewis stated, “He had problems expressing himself. He couldn’t write very well, get his thoughts down on paper, write a standard sentence with all the parts. He had problems socializing. The only person he was ever close with was his brother, Freddie. He didn’t seem to have male friends. The girls liked him. He didn’t talk much and gave off that allure of danger. The kids knew he had a quick temper and could go off at any time. They were leery of him. No one knew what would make him angry. He was unpredictable. He could be very sociable at times and very withdrawn at times. He would get frustrated easily at things that wouldn’t bother others, school work and tasks, but learned how to play chess.” Ms. Lewis stated that John was “always respectful to me and the other adults at school. I never heard of him being disrespectful to an adult at school. I never saw him do anything violent at school.”

Ms. Lewis stated that she was not privy to John’s IQ scores or school testing. She explained that Special Education records are destroyed after five years following graduation or dismissal from Special Education, which is why we have been unable to find detailed records. She stated, “We did not test for ADD (Attention Deficit Disorder) at that time. We still don’t, but parents can request outside testing now.” She is not sure if John had ADD, but noted that he was very impulsive and easily frustrated.

When asked if school personnel were concerned about John needing additional help or counseling, she stated that they did have concerns, but his mother was taking him to the

mental health center for counseling at the time. Ms. Lewis was not sure how long John attended counseling or if he was given a diagnosis.

Becky Templeton met John during the 1981-82 school year when she was a new Special Education teacher in Newport. She had John in her Resource classroom that year, which was his eighth grade year, and taught him during ninth and tenth grades as well. He was in and out of school some. She thinks he was sent off to an institution part of tenth grade for getting in trouble. She had the "Learning Disabled" classroom, in which all of her students were classified as having learning disabilities. She stated that John qualified for Special Education by having a learning disability. She was unaware if he had any other school related classifications. She stated that he was definitely not considered mentally retarded. She stated that all records are destroyed after five years so there are probably not any more records than the transcript we were able to obtain.

John had learning problems in reading and math. He did not like academics at all. Ms. Templeton didn't think that John tried very hard. She taught him to play chess and he enjoyed that quite a bit. She believed that he was more motivated to learn chess than to do academic work, because he was more interested in chess. John was impulsive and had a hard time thinking things through and considering consequences. She stated, "He never learned from his mistakes. If he got in trouble for something, he would keep doing it anyway." She worked with him on thinking things through and making good decisions (by talking about it) but she didn't think that she made an impact on him.

Although John got into trouble at school and in the community, Ms. Templeton believed that he was more of a follower. "He was never the instigator, but could be influenced by others, mostly his brother Freddie, and some other kids he hung around with who were troublemakers." However, she cannot remember details about the other kids, stating that it has been twenty years since then. John was well behaved in her class and she cannot remember having any major problems with him at all. He was always respectful to her. "He was a sweet boy. He is not a bad person. I really liked him. I saw him once after he got out of prison the first time. He came up and hugged me and told me I was his favorite teacher because I helped him think better in class and I taught him to play chess. I always thought that was very sweet of him."

John did not use drugs or alcohol that Ms. Templeton knew. She did not notice any problems with other students at school. He did "have a strange sense of humor at times" and "thought things were funny when they weren't. I remember him laughing a lot, sometimes inappropriately." She couldn't think of any specific examples, stating again that it was too long ago.

Ms. Templeton is not sure if John had any other problems besides his learning disability. She stated, "A lot of people in jail and prison have learning disabilities, probably because they have trouble with making poor decisions." She also thinks that kids with learning disabilities have problems in society because "if you think you are a failure at school, you feel like you're a failure everywhere."

John remembered Ms. Templeton fondly. He was especially animated in talking about learning to play chess and "beating her every time."

Ms. Lewis also developed a supportive relationship with John and he regularly confided in her. "John seemed to have difficulty accepting his stepfather when his mother remarried. John's father had been dead for several years, but John seemed to feel as if her remarriage was a betrayal of his father. John would confide in me when he was upset about his stepfather. He would say, 'He's not my father; I don't know why she married him; he is nothing like my father.' He would say that he did not want his stepfather around. He would tell me when he 'got into it' with his stepfather, arguing or fighting. He would say, 'I can't stand that man; he makes me sick.'" She went on, "John had his own sense of justice. When something was unfair, it seemed to disturb him more than it did others. For instance, when his mother remarried, he seemed to equate that with her cheating on his father, although his father had been dead for a long time."

Ms. Lewis thought it was strange that John would never lie to try to keep himself out of trouble. "He is not a liar. He would tell the truth, no matter what he had done. When people do something and could get out of it by lying, he wouldn't. He would always admit it. We would hear about something he might have done out on the streets and ask him about it at school. He would always say it was him if it was him. I just think there's something wrong with that. Most kids will try to get out of things, lie about little things to keep from getting in trouble."

"His thinking processes seemed to be disturbed," Ms. Lewis went on. "He was very impulsive and would do things without thinking. He didn't weigh the pros and cons. He was unpredictable. He was moody. Everyone gets 'the blues' at times, but with John, when he got in a 'down' mood, it seemed worse than other people. He was easily frustrated and had a hard time making good decisions. I think that his Special Education program was effective in dealing with his academic limitations, but that we were not particularly effective in helping him learn ways to deal with his frustrations and impulses. Children in Special Education are often limited in being able to make good decisions and think through their behavior. We tried to address these issues with John, but I don't think we were particularly effective." Although Ms. Lewis was aware that John had been seen briefly at the local mental health clinic, she stated, "I believe that he needed more help than we could give him. I believe he could have benefited from more intensive counseling than he received. His mother could not afford a doctor of psychology to see him."

John's high school transcript indicated that he received mostly B's and C's in his classes, along with some D's. He was withdrawn in October of 1982 and his records sent to Newark, Arkansas. He re-enrolled in December, 1982. His grades were later sent to the Arkansas Department of Human Services, Division of Youth Services, in Alexander, AR, in 1983. He was dropped from school altogether in 1986 due to "lack of attendance."

John reported that he quit high school in 11th grade. He stated that he was sleeping in class and another boy was talking. The teacher accused John of talking and disrupting

the class. Although others backed him up and said he was asleep, the teacher wanted to have him paddled. "The teacher wouldn't admit his mistake." John decided that school was not worth his time after having this run-in with the teacher and the principal, so decided to leave. He later obtained his GED in 1987.

Family Education History:

As previously noted, both of John's parents dropped out of school, his father in the eighth grade and his mother in the ninth grade, due to pregnancy. John's youngest half-brother, Patrick, is the only male in the immediate family who graduated from high school. Lynn, John, Freddie and Eric all experienced problems in school and dropped out. John's female siblings, Doris and Joann, did finish high school and Doris took some college classes. According to Clara Smith, none of the children except Patrick did very well in school. Lynn was considered a "slow learner" and attended a special rehabilitation school. Eric has stated that he believes that he has a learning disability but was never diagnosed and never received any special assistance in school. Clara Smith does not acknowledge that any of her children, other than Lynn, might have had learning issues. She believes that her other sons were simply "lazy." According to Eric, she did not want to push the issue with the schools and did not try to address her children's problems. Ms. Smith is a middle-aged Black woman and appears to be reluctant to engage in any kind of assertive behavior with people in authority, especially white people. She stated that she believes that "some teachers and police" are racist.

Mental Health:

John has been described by several individuals as "goofy." When asked to describe his "goofy" behavior, those people who know John state that he "laughed all the time, even when things weren't funny." His mother stated, "He would laugh when he was mad, laugh like he would never stop. I never could understand that." She stated, "He was always like that, even when he was little. When he was young, he stuttered a lot, couldn't talk much, so he laughed at everything."

Patrick Smith stated, "John laughed about everything. I always thought there was something 'off' about him." Patrick believes that John was affected by his father being killed in a car accident and his mother being in the hospital afterwards. Patrick believes that John's "goofiness" is "just the way he is, partly his personality."

John stated, "Weird stuff used to happen" when he was a child. He asked, "Do you think my father was possessing me?" John reported that he saw his father lying under his mother's bed after he died. "He looked dead, like he was in a casket." John told his mother about it and she stated that she had seen his father, too. He said, "We didn't freak out." He also reported that he "used to see two little white kids in the house dressed up like 'Little House on the Prairie.' They were always in the bathroom, looking scared at a house full of Blacks." There was a cemetery down the road with graves of children who had died of smallpox.

He went on to state that he believes his father was possessing him when he refused to let his uncle sexually abuse him. He didn't think he would have been strong enough to say no if his father hadn't been helping him.

Regarding ghosts in the house, Ms. Smith stated, "Everyone seen and heard ghosts. We could hear people walking up and down the hall all the time. My sister saw someone, an adult, coming down the hall and then going out the window. She told me she never wanted to baby-sit there again. Things used to happen all the time. Pictures would fly off the wall and big trays busted up off the tables. One night the room started shaking like someone was pushing on the walls, but it might have been a small earthquake or something."

Eric Smith stated that John once ran completely through a wooden door in the family's home, "for no reason, even though no one was chasing him." Eric stated that their mother was "worried that John was going to flip out or something" and took him to the local mental health clinic. According to Clara, John attended counseling once a week for approximately six months when he was in high school. She does not recall what prompted her to take John to the clinic. Clara does not remember the name of the counselor or if John was given a diagnosis. He was not put on any medication, to the best of her knowledge. Clara stated that John was referred to the clinic by someone in the Police Department, so it is likely that the referral was a condition of his probation or something related to an offense. The clinic has no records of John's treatment there. John has no real recollection of his therapy.

Ora Lee Williams stated, "I thought all of the boys had some kind of emotional problems because they were always in trouble. I thought it was because there was not a good man around. They try to be tough because they think that's what makes a man. Their mom was not there as much as she could have been because she had to work from sun-up to sun-down and they were by themselves."

Becky Templeton recalled that John "thought things were funny when they weren't. I remember him laughing a lot, sometimes inappropriately." She thought he had a "strange" sense of humor at times.

Helen Lewis remembered that John was attending counseling at the mental health clinic while he was in high school Special Education classes. She stated, "we were concerned about him but we knew he was going to counseling. I do not think that he got all of the help that he needed. His mother could not afford a doctor of psychology to see him." Ms. Lewis felt that John was more deeply affected than others by incidents which he perceived as "unfair." He was unpredictable and moody. Ms. Lewis stated, "Everyone gets 'the blues' at times, but with John, when he got in a 'down' mood, it seemed worse than other people."

John's aunt, Ora Lee Williams remembered, "As he come up and got to his teenaged years, he seemed to be different. He was going through a growing up stage. He was a little rebellious, maybe because his [step]father didn't take a lot of time with him. He

didn't really have a father figure around." She explained that John began to get into trouble around this time, having problems in school and with the law. She described John as "different." "He stayed off to himself. It was part of his personality. He would get upset easily. He could get upset about anything, the TV channels, someone saying something to him. He seemed like he was on the defensive all the time. One time he and his sister got into it over the TV and he hit the wall, then walked out. He was 14 or 15."

C. L. Borders, John's former employer, stated, "John's worst fault was being kind of goofy. He would hang out of my truck and yell and giggle. I would have to tell him not to act quite so silly and be more serious. John kidded and played around quite a bit. He acted kind of 'nuts' and was sort of jolly and goofy."

The AR Department of Corrections provided a copy of a "New Commitment Psychological Report," dated 6-7-87. The MMPI was administered to John by Jordan Litsey, MA, Psychological Examiner, and the report cosigned by Merle Kaiser, PhD, Chief Psychologist. Impressions were that John had "dull normal intellect," and that he was a "manipulative, rebellious type of person." John was also described as "a slow learner," "defiant around others," and "immature." A brief history was obtained, which indicated that John reported an abusive stepfather and relatives with drinking problems. He did not feel that his family was close compared to most families. "His parents were rarely around when he was growing up." John indicated that he had attended Special Education. He also indicated that he had seen a mental health counselor in Newark, AR, but "said he was stubborn and did not get along with his counselor."

Medical issues:

When he was in first grade, John was injured while "holding onto the back of a bicycle." A friend was riding on a bike with a long banana seat. John grabbed the back of the bike, trying to keep his friend from riding off. Somehow, John tripped and fell, knocking himself unconscious. He stated he was "knocked out for all day, 7 AM to 12 midnight." He stated that he was taken into the house, but didn't go to the doctor or the hospital. He woke up in the house and didn't know where he was. He stated that he had a headache and felt dizzy and disoriented. He went back to sleep and didn't wake up till the next morning. He stated that he really didn't remember anything when he woke up. Family members confirm this incident and state that John did not receive any medical treatment.

When he was 9 years old, he ran into a truck mirror and split his lip, requiring 8 stitches.

John stated that he had "kidney trouble" as a child. He wet the bed till he was 10 or 11 years old. He reported that he was "bleeding blood" in his urine in the second grade. He went to see Dr. Green in Newport, AR, who told him he had "bad kidneys." He is not sure if he received any treatment. He stated that Dr. Green "is not a doctor any more. He got caught selling drugs." He was a white doctor. "There were no black doctors in Newport." Clara Smith confirmed that John wet the bed till he was about ten years old. She could only recall one kidney infection when he was ten, and stated that he was treated with "some kind of sulfa drug" for a week. Clara stated that John was seen on occasion by Dr. Ashley. A request for Dr. Ashley's records was unsuccessful; he retired

in 1996 and he did not keep records on patients who had not been seen in the last five years prior to his retirement.

Eric Smith related a story in which John was mowing the lawn when he was about 14 or 15. A rock flew up and hit John in the head. "It cut him real bad between the eyes." He was just lying on the ground unconscious. Their mother threw cold water on him to wake him up and took him in the house. He didn't go to the hospital. Eric was small and doesn't remember the details. He is not sure how long John was unconscious or how severe his injury was. He stated John still has a scar on his face from the cut. When asked if John had stitches, Eric laughingly said, "we don't believe in stitches." Then he said, "Seriously, we just didn't go to the hospital for anything."

According to Arkansas Department of Corrections medical records, John was seen in the infirmary on 10-19-87 after being "pushed down on a bunk and cut." He was seen again on 12-3-87, stating that he fell down the stairs. On 6-2-88, he slipped and fell in the shower. He was paroled in 1988. After being readmitted to ADC, he was seen in the infirmary on 9-25-90 after being "hit in the head with a hoe by accident." Other ADC medical records do not appear to be significant.

On his ADC physical exam form, John did report "one period of unconsciousness," apparently referring to the childhood experience of being unconscious for a day after hitting his head on the concrete.

Drugs and alcohol:

Although John admits to experimenting with drugs and alcohol as a teenager, he does not appear to have a significant history of use or abuse. He was known to drink on occasion as an adult. He did not like drugs or anyone who used them, according to his mother. John also reported that he did not like drugs. He was concerned about Mark Caylor's behavior because he saw him as a drug user who was unpredictable and dangerous. John did not like Misty Caylor's child being exposed to drug use.

There is a family history of alcohol abuse. Clara Smith reported that her father "might have been an alcoholic." John's father was a heavy drinker who became more abusive when he was drunk. John's father's twin brother apparently also had a problem with alcohol. John was abused by Kenneth Russell, an uncle who was a drug addict.

John's personality and skills:

Several recurring themes came up in every interview conducted about John. Virtually everyone who knew him stated that he was a nice person, a good person, helpful and caring. None of his family or friends could believe that he was capable of murder. It did not seem like something John would do. It was also pointed out that John was a great mechanic and very good with his hands; that he could fix anything and often helped others with needed repairs, many times without accepting payment.

Clara Smith stated that John "was the most helpful of my kids. He would help me around the house, keep my car running. He always had a nice personality. He was never mean to me."

Eric Smith remembered John as "always a happy guy who would help others. He had a good attitude about most things. He was not mean or violent around me."

Angelique Allen recalled John as a kindhearted person who was always there to help her when she needed something. She described John as someone who had a good sense of humor, was a fun loving guy who talked and laughed a lot. He played with her kids and played Nintendo with her son. She stated, "John treated me a lot better than his brother [Freddie] did. He never disrespected me, treated me with the utmost respect." Angelique rarely saw John get mad or upset. He helped her out a lot, worked on her car, was usually happy and easy to get along with. "He was good with his hands, could do carpentry, and fix anything," she stated. At one time, John was helping a man on Alabama Street fix up a little duplex he had in the alley. The man told John if he worked on it, he could stay there for free. Angelique stated that John told him he would help him fix it up, but he didn't want to take advantage of him by living there free of charge. Angelique thought that showed how kindhearted John could be. He didn't understand why his brother would not do right by Angelique or help take care of his kids. "He spoke about that a lot." When he had nowhere to stay, Angelique offered to let him stay with her but he refused, saying that his brother was already taking advantage of her and he would not do that too. John never asked her for anything. He always asked if she needed anything and was everything okay? When John worked on Angelique's car or did anything else for her, he would never accept payment. He told her "it's family love" and he couldn't take anything. All of her kids had a good relationship with John. He was always good to them. Her son, Steven, would often want to go over to John's house. "I never would have let him go if I thought John would do something bad. I never saw a mean streak in him."

John's aunt, Bessie Jackson, also remembered John as a nice person. "John liked people. I never knew him to fight or anything like that. He was always doing things at his mother's house, fixing things up, painting. He was good with his hands and helpful to other people. He would fix the stove or other minor electrical repairs. He was real close to his mother and helped her out a lot. When he was older, I wasn't around much. When I did see him, he was always lovable, respectful and treated his mother well. All of us sisters always loved him; he never disrespected us."

"I have known John all his life. He was a people person, real nice," recalled John's aunt, Ora Lee Williams. "He was okay as a kid, was loving, happy, and liked to joke around. He seemed like a regular kid, laughing and having fun." Ms. Williams stated, "John was always nice to me because I always treated him with respect." "John was good at fixing things. He liked to tinker with tools and things that needed repair. He would work on his mother's car; fix the cabinets in her kitchen or work on the vacuum cleaner if it was broken. He would help his mother with anything that she needed to have done at her house."

John's half-brother, Patrick, observed that John was very caring toward their mother and toward his own children. Patrick described John as "a caring person in general." Patrick never saw John behave in a violent way. "One time, my mama was whipping him and he picked her up and put her in the bathtub," Patrick laughed. Patrick recalled this as a funny incident, not as something that was seen as problematic behavior. "John was very good with his hands and was a very good mechanic. He could take a car apart with his hands and put it back together with duct tape. He could take anything apart and fix it himself. He was always helping our mother and others with items that needed repairing."

John's half-brother, Lynn, described John as "a good person. He could do anything. He is a smart person. He loved kids; he was crazy about kids. He could fix anything. He didn't mess with drugs."

After John was older, Helen Lewis became acquainted with Clara Smith. "John was good at doing things for his mother, fixing things around the house and working on anything that needed repair. He was loving and caring toward his mother."

C.L. Borders, a former employer in Newport, stated that John was likeable and most people in Newport liked him. Mr. Borders also complimented John's skills, stating that he could fix anything, that he caught on quickly and was good with his hands.

Women and children in John's life:

At age 15 and 16, John reportedly had a sexual affair with a woman named Beverly Ford, who was ten years older than he. They both worked at the Country Club in Newport. She was a cook. "She would come out to the country and pick me up on the corner." John reported relationships with many women over the years, though he has never been married.

He has several children with different women. His oldest daughter, Carissa Wren, is about 17 years old now. Her mother is Vivian Wren, who lives in Newport, AR. John has a son, John Balentine, Jr., who is 14 years old. His mother is Angelina Watson, who also lives in Newport. John's third child is Quinhoja Balentine, whose mother is Lisa Childress. Quinhoja is about nine years old, living with her mother in Newport as well. John is not in touch with any of them except Angelina Watson.

Angelina stated that she knew several of John Balentine's female cousins and other family members while she was growing up. She first met John in 1989, when she was 14 years old. Later in 1989, they developed a serious relationship and she became pregnant. That same year, he was sent to jail and then on to prison for "burglary or robbery." They were together until he went to jail. Their son, John Lezell Balentine, Jr. was born on 1-28-90. Angelina stayed in touch with John while he was in jail and in prison. She took the baby to visit him in jail, but did not take him to see John after he was transferred to prison. They wrote letters during John's prison term. She stated that John demonstrated "very minimum concern" about the child. She described John as "very immature back then" and that he "didn't really act like he wanted to help." She stated that she was well

acquainted with his family members, but they were really no help to her either. After John got out of prison, Angelina did not have a close relationship with him. He did visit John, Jr. on a few occasions, but not consistently. She moved to Little Rock and would see John on occasion if she came back to visit in Newport.

John never paid child support and he never wrote or called his son on a regular basis till about 1998 or 1999. He does now write letters to both Angelina and their son. Angelina has a very caring and forgiving attitude toward John. She wants to encourage his relationship with his son. She is a religious person and believes that people should have second chances. She tries to drive from Arkansas to Texas once a year to visit John, bringing his son, and inviting his other children to come with them if they can. She tries to stay in touch with John's daughters in Newport and has had her son's picture taken with one of John's daughters so that he could have a photograph of them.

Prior to the offense, John was living with Misty Caylor in Amarillo. Misty already had a baby girl. According to John, his relationship with Misty was good until her brother, Mark, and others started hanging around the house and using drugs. John did not want to be around the drugs and did not think that the baby should be exposed to that environment. He then moved out of the house. Angelique Allen stated that John was very caring toward Misty Caylor's baby and often babysat while Misty worked.

Angelique remarked, "That baby loved John. He was very good with the baby. She was small, less than a year old, and would go to John. I never saw him mistreat that baby or show her anything but love." Misty and John began to have problems over the drug use in the household. Angelique stated, "John showed a lot of regret for having problems with Misty. He wanted to make up with her."

Employment:

In Newport, Arkansas, John did lawn work and repair work for people. He worked as a handyman for C.L. Borders, who did carpentry, roofing, flooring, concrete pouring and plumbing. Mr. Borders was interviewed in 1999 by Kathy Garrison, an investigator for John's trial lawyers. John was inconsistent in getting to work due to not having a vehicle. Mr. Borders stated that John was a hard worker. "He caught on quickly and was good with his hands. He was a tinker man and liked to work on cars. He could repair anything. He could fix radios, VCR's and about anything else." Mr. Borders stated that John was not a thief and did not use drugs or alcohol.

John was employed by the Curtner Lumber Company in Newport from 7-19-89 to 8-23-89, when he quit. He was employed there again from 7-14-93 until 10-13-93, when he was terminated for missing too much work. He had several write-ups for missing work or coming in late.

In Amarillo, Texas, John worked for Ike's Detail from March to July, 1997, earning \$6 per car. He then worked at Applebee's in Amarillo from August to October, 1997, as a fry cook and dishwasher, earning \$6 per hour. In October, 1997, he went to work as a cashier at Love's Country Stores in Amarillo. He was terminated on 12-20-97, after not showing up at work and not calling.

John also worked as a handyman and mechanic on his own, doing odd jobs and repairing cars for others.

Religion:

At age 13, John started lifting weights. Some Jehovah's Witnesses came to the house. One of them had some weight lifting equipment. John made a deal with them that he would attend their services for a month in exchange for some weights. He was not in any kind of youth organizations. He went to a Baptist church regularly as a child. It was "a church out in the woods." He stated, "I am a religious person, I believe in God, Jesus, Satan." He had a religious counselor in prison for a while, but the man is now in the VA Hospital with medical problems. John stated that he thought his counselor would be back eventually and doesn't feel a need for anyone else at this point.

Racism:

John believed that the school and the town of Newport were racist. He reported that during his high school years, some white girls started dating black guys and "their dads started showing up on their (the boys') doorsteps with shotguns." He remembered the KKK having a rally in Newport. The National Guard was there and Black people were told to stay in their houses.

All of the African Americans interviewed for this report believe that racism existed in Newport during John's upbringing and that it still exists today. Clara Smith stated that "some teachers and police are racist." She believes that John's alleged beating at the hands of the police when he was 17 was racially motivated. Patrick Smith stated, "Newport is small and we live on the edge of town. It is a very racist town and Blacks and whites live in separate areas. White people here seem to expect Black people to be in trouble. I feel that it is suspected that I am "up to no good" simply because I am Black. Recently, I went to an apartment complex to visit a friend of mine. He didn't answer his door so I went to the pay phone on the property to call his apartment to see if he was home. While I was there, the apartment owner came up to me and told me to leave the property. I explained to him what I was doing and told him I was not looking for any trouble. He called the police and they told me to leave; that if I returned I could be arrested. I believed that they were making a judgment about me solely based on my race. It is hard for Black people to be successful here. I feel that I have to put out extra effort to prove myself. I have to work twenty times harder than a white person to get a good job, or even to get an interview to get a good job. I believe that I am looked down upon because of my race."

Ora Lee Williams stated, "There was a racist attitude in and around Newport, Arkansas. There seemed to be a general opinion among white people that Black people were expected to be in trouble."

Immature Sense of Fairness and Victimhood:

Helen Lewis noted that John had "his own sense of justice." When something was unfair, "it seemed to disturb him more than others." Clara agreed with this assessment of

her son. "He would do whatever he thought was right. If someone took something from him, he would have to go get it. If someone hurt him or his family, he would probably try to hurt them." When asked how she thought John came to feel this way, she stated, "I'm not sure where he learned that; he was just born with it; he did not learn it from me." However, it does appear that John learned this behavior from his upbringing and family of origin. His mother and siblings seem to have a strong distrust of anyone in authority, whether it is the police, the school system or persons in a position of power. Clara Smith was abused by at least two men and, as is often the case, tried to keep the abuse quiet. Her children were abused by several men and there was no intervention. The schools did not adequately address John's problems, but no one would stand up for him. There was a pervasive attitude of racism in the community and Black people were not comfortable confronting authority. When Clara found out that her husband, George Smith, had girlfriends on the side, she took out a gun and tried to address the problem herself. Her children observed that there was no one to help with their problems and they had to rely on themselves to solve any issue. The children were left to "fend for themselves" from an early age and did not have to ask for help; they simply fought things out among themselves and within the neighborhood.

Involvement with the legal system:

John stated that he began to break into stores when he was about ten years old. His brother, Freddie, was nine. They broke into a motorcycle shop in Newport and were caught by the police. John stated that he received a sentence of \$400 fine and one year probation. He stated, "The probation was unsupervised. I never went to see anyone."

He "smoked dope" at 11 or 12 years old, but didn't like drinking or drugs for the most part and did not engage in either with any frequency. His mother stated, "He didn't like drugs or anyone who did drugs."

According to records, John Balentine, age 14, and Freddie Balentine, age 12, attended juvenile court on July 7, 1982, pleading guilty to breaking and entering J and S Agri Company and stealing money, pistols, knives and two motorcycles. Most items were recovered, but one motorcycle was wrecked and required \$275 in repairs. The Court found them to be delinquent juveniles and placed them on one year's probation. They were also ordered to pay \$475 in damages within a year.

According to records, on 7-8-83, John was accused of breaking into the Newport High School JROTC Building, and stealing a military pellet rifle, three Daisy rifles, 30 army green short sleeve shirts and 19 pair of military fatigues, with a total value of \$437.06.

John was sent to the Department of Human Services Division of Youth Services facility in Alexander, AR on 9-14-83. John stated that this was a "juvenile training school." "The psychiatrist said I had an attitude problem. I was giving her a hard time; didn't want to see her." He does not remember the psychiatrist's name. He went to school and wanted to play football, "but could never get enough credits." He stated that he was always at the bottom of the level system and could not work his way up. "Finally, after 46 days, my mama came to get me and they said they were glad to see me go." John was

released in March, 1984, with "maximum benefits achieved." He was sent home to his mother, to attend public schools, "obey all laws and report to Reintegration Counselor Jana Duncan within three days." No further records could be located. Eric Smith stated, "John told me that the people in the 'mental thing' whipped him all the time with a paddle or a belt."

On 3-4-85, John and Freddie were again seen in Juvenile Court for a sentencing hearing, in which they were found delinquent. John was sentenced to the Arkansas Department of Youth Services until age 18, with the sentence suspended if he had good behavior till age 18, paid restitution and costs, stayed in school and passed all subjects, and maintained supervised probation.

In 1986, John was convicted of burglary and criminal attempted theft of property in a break in of the Walmart store, in which he had attempted to steal some firearms and was arrested on the scene. John stated, "The cops pistol whipped me on the head." His half-brother, Eric, stated, "John was abused a lot when he was in jail at 17. I went to visit John and he had knots on his head. They looked like cartoon knots, like skin peeling back and the knot coming through. John said that the police did it."

John pled guilty on 4-3-87 to burglary and attempted theft of property, a class C felony. He was sentenced to five years in the Arkansas Department of Corrections on each count, to run concurrently. He was given credit for 105 days spent in the Jackson County Detention center awaiting trial. He was ordered to pay a fee of \$106.75 in court costs to pay within five years. He was admitted to the ADC on 6-5-87 and paroled in 1988.

On 11-20-89, John was accused of a robbery of a man and woman in Arkansas. He and another young man walked up behind the couple. One of the assailants hit the man over the head with a bottle. The couple did not have any money and the assailants ran off. The accomplice, William Otis, implicated John and signed a statement against him. John was sent back to the ADC on 7-12-90 for another five-year sentence.

After being released from prison, John returned to Newport. In 1996, He was accused of carnal abuse after having a sexual relationship with a fifteen-year-old girl. Although the young woman admitted that the relationship was consensual, John was 26 years old and her parents insisted on filing a report.

John was then allegedly involved in assaulting and robbing a woman he had previously worked with at a nursing home. He broke into her house and forced her into her car when she came outside to drive away for help. She escaped when he stopped at convenience store. When John was arrested in Amarillo in 1998, he was considered a fugitive from Arkansas on the above two cases. He had outstanding warrants for failure to appear in court on the charge of carnal abuse, and for residential burglary/terroristic threat/ battery/aggravated assault/kidnapping and robbery on the second alleged offense.

On January 21, 1998, Mark Caylor, Kai Geyer and Steven Watson were shot and killed in Amarillo, Texas. John was picked up in Houston in July, 1998, after a traffic stop.

While being processed to be transported back to Amarillo, John engaged in a physical altercation with sheriff's deputies and had to be restrained. He was then transported to Amarillo without further incident. After being tried and found guilty, John was received on Texas death row on June 11, 1999.

Offense:

John had been living with Misty Caylor and her child in Amarillo, Texas. He reported that they had a good relationship until her brother, Mark, started hanging around the house, using drugs. Mark lived with them for a time and John did not like the drug activity going on at the house. There were people in and out quite a bit. John was concerned about drugs being used around the baby. John and Misty argued and there were reports that he had been abusive toward her. John moved out of the house. He stated that Mark had been threatening him and John was afraid that something bad was going to happen. He was fearful that Mark might do something to Angelique Allen or her children because they were friends with John. John stated that Angelique's house had been broken into and \$2000 worth of stereo equipment was taken. Angelique thought that her neighbors had committed the burglary, but John was afraid it might have been Mark Caylor. Angelique had been at Misty's house looking for John and Mark Caylor had voiced threats toward John at the time. John stated, "In my mind, I thought I had to do something first." He now thinks that he made a bad decision.

Angelique reported that some days prior to the shootings, she had gone to Misty Caylor's house looking for John so he could work on her car. Mark Caylor was there and was threatening to hurt John. He told Angie, "Hell, no, that mother fucker ain't here. You tell him when I see him, I got something for him. I'll kill him." He showed her a gun. He did not threaten Angie but she was afraid just from seeing the gun in his hand.

When she saw John, she told him about the incident and told him he should "be careful and watch his back." She stated that she felt it was only right to tell him and she would have felt bad if something happened to him and she hadn't told him. She stated that he was nervous about it but said he would take care of himself.

Angelique stated that the police picked her up a day or two after the shootings and took her to the police station for questioning. She could not remember who questioned her. She believed that she was picked up around 9 AM and kept until about 2 PM. She stated that "it seemed like a long time." There were several individuals questioning her about John Balentine and his activities. At one point she asked, "Does it take all of y'all to question me?" She was afraid, and felt like she was being questioned herself, as if she had done something wrong. The officers kept telling her "things that they said John had confessed to" and asking her if she knew about them. She did not.

Eric Smith was also picked up by the police. He reported being scared and feeling threatened by the police. He finally signed a statement out of fear, even though he states now that the information was incorrect.

Death Row:

John has been depressed about his incarceration. Prior to the appointment of Lydia Brandt as his attorney, John had few visitors and little to no money in his inmate account. He stated that his mother and his other relatives "are country people and have no way to get here. I can't hold it against him." In the beginning of his sentence, his sisters would occasionally send him some money, but they do not do that much any more. He likes to read "fantasy" books, but the prison has "an incomplete library." He wants to get Angel Tree by Ty Williams, about "good vs. evil," and Will of Time by Robert Jordan. John enjoys drawing. When interviewed, John was friendly and cooperative. He seemed to have a desire to assist with his case and to explore his memories. He had a sense of humor and was able to laugh at himself. Occasionally, he would laugh inappropriately when discussing a serious subject. He has been described as "acting goofy" by others and this was evident four or five times in the course of discussion. John seems to feel that he is "stupid" because he was in Special Education. He is able to reflect on his life and the mistakes that he has made. He wishes his life had been different in many ways, from his upbringing to his neighborhood, to his education and training, to his illegal activities. He thinks of himself as a good person and wishes other people could see that side of him.

Regrets

John stated that if he could change things, he would go back to the time when he hit his head in first grade. He is not sure how that incident changed his life, but seems to feel that it had an impact. He stated he would also pay better attention in school. He would like to have a family and a nice job as a mechanic. He "loved staying greasy, working on cars." He stated that he didn't have to have a book, he learned to do mechanic work on his own. At age 12, he fixed the transmission on his mother's car, just figured it out on his own. She let him drive the car after that. He tried to go into the Job Corps to take small engine repair classes, but "my parole officer wouldn't let me." "I wanted to learn a trade." He also knows how to cook and do carpentry work. He misses his kids and people he knew in the world. He feels depressed at times and regrets that he committed the offense.

Mitigation Witnesses:

John's family and friends were all willing to speak for him at his trial. They have universally stated that no one contacted them and asked for their input. His mother does not remember anyone from the defense team contacting her at all. Eric Smith stated that he attempted to call one of John's trial attorneys himself, but no one ever returned his call. Helen Lewis stated, "No one talked with the people who knew John best. They only talked with law enforcement." Angelique Allen was interrogated by the police and was called to the courthouse, but never testified. She is not even sure if she was intended to testify for the prosecution or the defense. There were many witnesses who could have shed a great deal of light on John's background and character, but none of them had a chance to tell his story to the jury. Eric Smith and Angelique Allen both felt threatened and intimidated by the police investigating the offense. Eric stated that he signed a statement that was untrue because he was afraid that something would happen to him if he did not cooperate.

Eric stated that the police had come to his home at W. 8th and Line, Amarillo, and later at 404 S. Virginia, Apt. A, Amarillo, on several occasions, surrounding the house, beating on the doors, shining flashlights in the windows, "harassing" him and his family, and scaring his kids. They did this before John was apprehended and again after John was in jail. Eric's opinion is that the police did not have a warrant but wanted to scare him. He was living with the mother of his two children, Devonda Patterson, at the time. They were living behind Angelique Allen's house when they lived on S. Virginia.

Finally, several months after John had been arrested, Eric opened the door when Detective Paul Horn came to speak with him. Det. Horn came in, sat down and stayed a short while. He asked if Eric had been with John around the time of the crime and if Eric had taken John anywhere. Eric stated that he told him John had been in and out, and that Eric had not taken him anywhere. The next day, Det. Horn came back and took Eric to the Police Dept., where he interrogated him for about three hours. Det. Horn kept giving Eric different "scenarios," stating, "John rushed in, he was frantic, he wanted you to take him somewhere..." Eric stated, "I am not going to lie, it scared the shit out of me. I told them I would sign anything if they would let me go." He stated that Det. Horn then told him that he had a tape made of John talking about the crime. Det. Horn reportedly stated, "I am not supposed to let you hear these tapes (Eric states there may have been two); I can get in trouble if I let you hear it. I am going to let you hear it because you're a family guy and I don't think you are involved in this, but you could go to jail behind this." He also told Eric, "I know you don't want to spend the rest of your life in jail." Eric said Det. Horn played bits and pieces of a tape that had John's voice on it. Eric stated, "John sounded like he was in his jail cell talking to someone." Det. Horn would fast forward the tape when the other person began to speak. He would only let Eric hear small portions such as, "I was walking.....," then it would fast-forward, or "I looked in the window....," then fast-forward. Eric said he does not recall John saying anything incriminating in the parts he heard.

Later, the detective stepped out of the room and Eric could hear him talking to someone else. He said something like, "These guys ain't nothing, you get on them a little and they'll sign anything." Eric told himself he didn't think they could use his statement in court if he wasn't there, so he signed whatever they wanted him to sign so he could get out of there. He said he agreed with whatever they wanted him to say because he was afraid.

At one point prior to the trial, some of the prosecutors brought him in and met with him regarding his statement and he denied saying some of the things on the statement. He said they were mad at him and he left town so he wouldn't have them after him to testify.

Eric stated that he found out later that the other voice on the tape was a person he knew as "Drew Down." He ran into Drew months later and Drew made mention of the fact that "one time they put me and your brother in the same cell for three days." Eric felt that it was some kind of set-up, "put two people accused of murder in the same cell and let them talk, see what comes up, and use it against one of them." He does not believe that Drew

was a paid informant but he is not sure. He does think it is interesting that Drew was then released from jail about a month later, although he was "either being held on a murder charge or had been convicted of a murder charge."

In following up on this information, we were unable to locate "Drew Down," a tape, or tapes that Eric might have heard. The District Attorney's files were reviewed with no success in locating such a tape.

Eric made a statement that Detective Ed Smith brought him a subpoena on pink notebook paper, which Eric thought was very strange. The prosecution wanted him to testify against John because they said he had driven John to the bus station. Eric stated that that was nothing unusual, John was always coming and going. Eric then went to Albuquerque until after the trial so he would not have to testify against his brother. He stated that the defense never contacted him at all, although he made one call to one of the trial attorneys (he cannot remember to whom) and never received a call back. He remembered that his mother was considering moving to Houston at the time, but stated that she would have testified if she'd been asked.

Mitigation Issues:

John Balentine's life has been shaped by tragedy, abuse, poverty, a chaotic family life, a drug and crime infested living environment, learning problems, possible mental health issues, and a myriad of circumstances that were overwhelmingly difficult to overcome. He was born to a mother with limited abilities; Clara Smith had herself grown up in poverty and become pregnant at age 13, dropping out of school and therefore limiting her own chances of a successful life. When Clara did marry, she chose a man who abused her and abused alcohol, both witnessed by the children on a regular basis. James Balentine was killed in a tragic accident, leaving Clara a young widow with five children to raise on her own, and leaving John his earliest memory, that of his father lying in a casket.

While Clara struggled to support her young family, the children were often left unsupervised for hours at a time, left to their own devices on the streets of "the worst neighborhood in Newport," according to Lt. Charles Vaughn of the Jackson Co. Sheriff's Department. Drugs were openly sold and used, guns were visible, robberies and burglaries were committed, buildings were vandalized and boarded up. Aunts and the children's great-grandmother helped baby-sit when they could, and as the children grew up, the older ones looked after the younger ones as best they could. Still, John described his home as "nice, except for the doorframes pulled from the walls by the kids fighting all the time." Eric Smith stated that the house was crowded, with all of the boys sharing a room, and much tension in the air from the close quarters. Clara Smith refused to take "welfare," which may be admirable, but also left her children with even less than they might have had. "Even if we didn't have much to eat, we always at least had cereal," Eric remembered. John stated that he rarely saw his mother while he was growing up.

Although John appeared to be a fairly healthy child, he did not talk well until he was about five years old. He reported that people had a hard time understanding him and his

mother stated that he stuttered quite badly for several years. Because John's medical records are not available, it is hard to know if he had other developmental delays, but his speech impairment was probably an early indication of his later learning problems. He wet the bed until he was ten or eleven years old, and reportedly had some kidney problems, though further details are also unavailable. While he was already delayed in his language development, John then suffered a head injury at age six, after falling backwards onto the concrete outside his house. He was carried inside and laid on the couch, but remained unconscious all day and through the night. John reported waking once, feeling dizzy and disoriented, and "going back to sleep" till the next day. The effects of the head injury remain unknown because John received no medical treatment. Family members recalled that they rarely used a doctor and never went to the hospital. Although John cannot pinpoint the changes which occurred because of the head injury, he instinctively reaches back to that time when asked what he would change about his life. He feels that something was different in him after the injury and wishes he could see what his life would have been like if it had not happened.

When John began school, he was in speech therapy and entered Special Education with a diagnosis of learning disability at some point in his school career. Meanwhile, his mother married George Smith, another abusive man, who beat her and her children, verbally abused them and made their lives miserable with his meanness. When Clara Smith attempted to leave her husband, she took her family to live with one of her sisters in Little Rock. Instead of a respite from the violence at home, John was exposed to an uncle who was a "crackhead" and an abuser himself. Kenneth Russell beat John so badly for wetting the bed that John could not walk afterwards.

Later, one of John's uncles, also named John Balentine, tried to sexually assault John but was unsuccessful. Still, John was "terrified" and did not know what to do. He never told anyone about the incident until now.

Clara returned to George Smith and the abusive behavior continued. The children could not stand Smith and had many arguments with him. He and John had physical altercations at times and John would leave the house for the streets. On at least two occasions, Clara took a gun after other women who were involved with George, in one instance, shooting out a windshield of the car George was driving with another woman.

John's school problems continued and he began to get into trouble with the law when he was about twelve, primarily for stealing. He and his brother Freddie seemed to be together in most instances of illegal activities. John's teachers stated that he really did not seem to have male friends and was easily influenced by his brother. John was described as "goofy," laughing a lot, even when the situation was not funny and laughter would be considered inappropriate. As a teenager, he was taken to the local mental health clinic because his mother was concerned about him, but no records are available to discover the intervention that took place. John reported seeing ghosts in the house and wondering if his father's ghost was sometimes inhabiting his body. He ran through a door in his home "for no reason, as if someone was chasing him." He was described as moody by a teacher at school; someone who seemed more 'down' than others when he

was having a bad day, and someone who seemed more burdened by unfairness and injustice than others.

John had many difficulties learning in school and seemed to have problems thinking his through his actions and anticipating consequences. He was described as impulsive, and having difficulty learning from his mistakes. He confided in one teacher about problems with his stepfather. He was sent to a juvenile facility, where he stated that he saw a psychiatrist but didn't like her and didn't want to cooperate. A teacher stated that she believed that he needed more help than he was given, but his mother could not afford a doctor of psychology to see him.

There appears to be a history of learning problems within the family; both of John's parents dropped out of school, as did John and his half-brothers, Lynn, Freddie, and Eric. Lynn was considered a "slow learner" and attended a special rehabilitation school. Eric stated that he believes that he, himself, has a learning disability but was never offered any assistance.

Along with living in "the worst neighborhood in town," John also lived in a town that was and is considered to be racist by all of the African Americans interviewed for this report. All stated that people "just seem to expect" Blacks to be in trouble, and that it is hard for a Black person to get ahead in Newport. Blacks and whites live in different parts of town and Blacks feel as if they are looked down upon. Several individuals noted that the KKK is still active in Newport and that there was a KKK march there some years back. The police and the school system are both suspected of racism. Whether these accusations are true or not, there is a strong perception among John's family and friends that a Black person has much to overcome. This feeling of racism also leads the family to take matters into their own hands because they do not trust the police. "The police won't help anyway, so what is the point in calling them?" Years of abuse went on without intervention. Just as Clara took a gun to intimidate her husband and his girlfriends, and just as the children learned to fend for themselves on the street, John has learned to deal with problems on his own because there isn't anyone there to help.

Despite the many strikes against him, John is described as a nice person, one who was usually happy, upbeat and caring. Despite an inadequate formal education, he taught himself how to repair cars and appliances and used his skills to help his mother, family and friends. He was an excellent mechanic and handyman, often providing his services free to those he cared about. He had difficulty finding and keeping a "regular" job, possibly due to his learning disability, but was always willing to work with his hands.

At the time of the offense, John felt personally threatened by Mark Caylor and had a fear that something bad was going to happen. John felt doubly threatened because he knew of Mark's drug use, and John believed Mark to be unstable because of the drugs. John was protective of Angelique Allen and her children and was afraid that they would be hurt in some way. Still, John has regrets about the offense and knows that he made a bad decision. In his confession, he stated that he was "stunned" when he found himself in the house after the shots were fired. With his learning disability, his history of abuse and

chaotic family rules, his impulsivity and difficulty with decision-making, his concern about unfairness, it is understandable to see how he could have come to this place in his life. The jury should have been permitted to examine the whole of John's life and not just one night when a horrific crime was committed. If the members of the jury had been allowed to meet Clara Smith and other family members, to hear first hand about the physical and emotional abuse that was perpetrated on the entire family for many years, they could have imagined a small, scared boy struggling to make sense of his abusive home and drug and crime infested neighborhood. If Lt. Vaughn, a law enforcement official, could have looked at the jury and stated, "John's childhood neighborhood was the worst in Newport" and "I would not want to live there myself," explaining why, then the jury would have had a better picture of John's childhood experience. If the members of the jury could have listened to Helen Lewis and Becky Templeton talk about John's school years, they would have had a better understanding of John's limitations in learning and processing information, making decisions, and controlling his impulses. If John's family and friends could have shared their stories about his kindness and helpfulness, his skills and abilities and his concern for fairness in the world, the jury would have seen another side of John Balentine and could have been better able to make an informed decision about his punishment. With an expert witness, such as a psychologist, to walk the jury through all of John's history and all of the issues affecting his development, the jury could have gained a different perspective on his life and his actions. Because a proper mitigation investigation was not performed in a timely manner, the jury never had the opportunity to weigh the total of John's life against the biggest mistake he ever made.

A thorough mitigation investigation should begin at the time of the client's arrest. In John's case, Kathy Garrison, an investigator hired by John's trial lawyers, did not begin work until the eve of trial. It is impossible to perform an adequate mitigation investigation in such a short time frame. All of the months leading up to trial will be needed to obtain records and information, and especially to develop relationships with the client, family, and friends, to establish trust and rapport, to discuss sensitive and often painful memories, and to put all of the client's experiences into context to present a coherent defense. In a death penalty case, the average mitigation investigation encompasses 300 hours or more. Each contact often leads to new contacts, which lead to other contacts, and so on. Each answer leads to new questions, which must then be explored and addressed. Often, people are difficult to find; once found, they are often difficult to engage, and many attempts and efforts must be made in order to have successful interviews. As in John's case, records are often difficult to locate, may take long periods of time to obtain, and may have been destroyed. Many hours are spent on phone calls, on the Internet, speaking with individuals in person, and traveling to perform interviews or searches, as well as consulting with the client's attorney(s) and other defense team members. Ideally, the team shares information all along and works together to develop mitigation themes which will be utilized throughout the first and second stages of trial. Although I have worked on this case for many months, I have still had difficulty finding records and people, which leads me to conclude that it would have been impossible to perform an appropriate mitigation investigation on short notice. Had an appropriate mitigation investigation been performed early on, I have confidence that

mitigation issues could have been successfully woven into the guilt/innocence phase and could have made a positive impact during the penalty phase of John's trial.

Jane McHan

Jane McHan, LCSW
Mitigation Specialist

August 6, 2004

JOHN LEZELL BALENTINE
TIME LINE OF IMPORTANT LIFE EVENTS

9/14/34 John's father, James Henry Balentine, was one of twin boys born to Rosa Craven and John Balentine in Jackson County, Arkansas. James' twin brother was named John Balentine. (Clara Smith interview)

8/6/49 John's mother, Clara Mae Rowe, was the first of eight children born to Leopher Simmons and Izell Rowe in Augusta, Arkansas. (Clara Smith interview)

3/15/64 Lynn Ray Rowe was born to Clara Rowe. (Clara Smith interview, Lynn Rowe interview)
Clara Rowe dropped out of high school to raise her son. (Clara Smith interview)

2/25/65 Clara Rowe and James Balentine were married. (Clara Smith interview)

10/17/66 John's sister, Doris Helen Balentine was born in Newport, Arkansas. (Clara Smith interview)

1/30/69 John Lezell Balentine was born in Newport, Arkansas. (Clara Smith interview, John Balentine interview, records)

1969 John and his family lived in a crime and drug infested neighborhood, "the worst in Newport," according to Lt. Charles Vaughn of the Sheriff's Dept. (Interviews with Clara Smith, John Balentine, Eric Smith, Patrick Smith, Charles Vaughn)

4/20/70 John's brother, Freddie James Balentine, was born in Newport, Arkansas. (Clara Smith interview)

1970 Clara Balentine obtained her GED. (Clara Smith interview)

5/16/71 John's sister, Rosie Joann Balentine was born in Newport, Arkansas. (Clara Smith interview)

12/71 James Balentine was killed and Clara Balentine was injured in a car accident. (Interviews with Clara Smith, John Balentine, Eric Smith and Patrick Smith)
James Balentine drank excessively and physically abused his wife throughout their relationship. His drinking and abusiveness were observed

by his children. (Interviews with Clara Smith, John Balentine, and Lynn Rowe)

John recalls his earliest memory: standing at his father's casket and looking in. (John Balentine interview)

1972 Clara Balentine began working at least two jobs to take care of her children after her husband's death. The children stayed with aunts or Clara's grandmother, or were left to fend for themselves. (Interviews with Clara Smith, John Balentine, Bessie Jackson, Ora Lee Williams)

1972 John was delayed in learning to talk; was difficult to understand and had a stuttering problem. (Interviews with John Balentine and Clara Smith).

9/75 John began first grade in Newport, Arkansas. He did not recognize his name written on a slip of paper on his desk and had to be told by his cousin, "that's your name." John had always been called "Baby Brother" or "Baby Bro" by family members. He does not remember much about his early years of school. "I was just there." He believes that he had speech therapy in his first two to three years of school. He stated that he was in Special Education "for as long as I can remember." (Interview with John Balentine)

11/5/75 John's half-brother, Eric Ontario Smith, was born to Clara Balentine and George Smith in Newport, Arkansas. (Interviews with Eric Smith and Clara Smith)

1975 John was injured while holding onto the back of a bicycle, trying to stop another boy from riding away. John fell backwards onto the concrete and was unconscious for the rest of the day. He received no medical treatment. (Interviews with John Balentine and Clara Smith)

1976/77 John's uncle, John Balentine, attempted to sexually molest him while sleeping in the same pullout couch bed at John's grandmother's home. (John Balentine interview)

5/20/80 Clara Balentine and George Smith were married in Newport, Arkansas. (Clara Smith interview)

1980 George Smith verbally and physically abused Clara and her children on a regular basis. (Interviews with Clara Smith, John Balentine, Ora Lee Williams, Bessie Jackson, Eric Smith, Patrick Smith)

Clara took her children to stay with her sister, Ora Lee Williams, in Little Rock to escape Smith's abuse. Ora Lee's husband, Kenneth Russell, was a "crackhead" who physically abused Ora Lee, her children, and "any other children who happened to be there." Russell beat John severely for wetting the bed, leaving John unable to walk. (Interviews with John Balentine, Clara Smith, Ora Lee Williams)

1981/82 Becky Templeton met John Balentine in her Special Education classroom. He was in Special Education because of a learning disability. John had difficulty with reading and math, as well as problems with impulsivity, decision making and understanding the consequences of his actions. (Interviews with Becky Templeton and John Balentine)

7/7/82 John was seen in Juvenile Court, pleading guilty to breaking and entering J and S Agri Co. with his brother, Freddie, and stealing money, pistols, knives and two motorcycles. Most items were recovered, but one motorcycle was wrecked and required \$275 in repairs. The Court found them to be delinquent juveniles and placed them on one year's probation. They were also ordered to pay \$475 in damages within a year. (Court records, interview with John Balentine)

1982/83 Helen Lewis, Special Education teacher, met John at Newport High School. He confided to her about his problems at home with his stepfather. She stated that John seemed to have "his own sense of justice" and that unfairness seemed to affect him more than it did others. She believed that John "needed more help than we could give him." (Interviews with Helen Lewis and John Balentine)

7/8/83 John was accused of breaking into the Newport High School JROTC Building, and stealing a military pellet rifle, three Daisy rifles, 30 army green short sleeve shirts and 19 pair of military fatigues, with a total value of \$437.06. (Police records, interview with John Balentine)

9/14/83 John was sent to the Department of Human Services Division of Youth Services facility in Alexander, AR. (Court records, Interview with John Balentine)

8/15/84 John's half-brother, Patrick Tyrone Smith, was born in Newport, AR. (Interviews with Clara Smith and Patrick Smith)

1984 George Smith pulled a gun on John during an argument. (Interview with John Balentine)

3/4/85 John and Freddie were seen in Juvenile Court and found to be delinquent. John was sentenced to the Arkansas Department of Youth Services and placed on probation. (Court records)

4/3/87 John pled guilty to burglary and attempted theft of property in a breakin at Walmart. He was sentenced to five years in the AR Dept. of Corrections. (Court records, trial testimony, interview with John Balentine)

John, Clara and Eric report that John was beaten by the police when he was arrested at the Walmart store. John stated, "The cops pistol whipped me on the head." Eric stated, "John was abused a lot when he was in jail at 17. I went to visit John and he had knots on his head. They looked like cartoon knots, like skin peeling back and the knot coming through. John said that the police did it." Clara stated, "There was blood behind the Walmart where they beat him." (Interviews with John Balentine, Clara Smith, Eric Smith)

1987 (approx) John's first child, Carissa Wren, was born to Vivian Wren in Newport, AR. (Interviews with John Balentine and Angelina Watson)

6/5/87 John was admitted to the Arkansas Department of Corrections. (ADC records)

6/7/87 A "New Commitment Psychological Report" was prepared at ADC. The MMPI was administered to John by Jordan Litsey, MA, Psychological Examiner, and the report cosigned by Merle Kaiser, PhD, Chief Psychologist. Impressions were that John had "dull normal intellect," and that he was a "manipulative, rebellious type of person." John was also described as "a slow learner," "defiant around others," and "immature." A brief history was obtained, which indicated that John reported an abusive stepfather and relatives with drinking problems. He did not feel that his family was close compared to most families. "His parents were rarely around when he was growing up." John indicated that he had attended Special Education. He also indicated that he had seen a mental health counselor in Newark, AR, but "said he was stubborn and did not get along with his counselor." (ADC records)

1987 John obtained his GED while in prison. (Interview with John Balentine, ADC records)

10/19/87 John was seen in the prison infirmary after "being pushed down on a bunk and cut." (ADC medical records)

12/3/87 John was seen in the prison infirmary, stating that he "fell down the stairs." (ADC medical records)

6/2/88 John was seen in the prison infirmary for "slipping and falling in the shower." (ADC medical records)

1988 John was paroled from the ADC. (ADC records)

7/19/89 John began working for Curtner Lumber Co. in Newport, AR. (Employment records)

8/23/89 John quit his job with Curtner. (Employment records)

11/20/89 John was arrested for the robbery of a man and woman who were walking down the street. He allegedly hit the man over the head. John's accomplice signed a statement against him. (Newport Police report)

1/28/90 John's second child, John Lezell Balentine, Jr. was born to Angelina Watson in Newport, AR. (Interviews with John Balentine and Angelina Watson)

7/12/90 John returned to ADC to serve a five year sentence. (ADC records)

9/25/90 John was seen in the infirmary after "being hit in the head with a hoe by accident." (ADC medical records)

1992 Clara Smith divorced George Smith. (Interview with Clara Smith)

7/14/93 John was employed with Curtner Lumber Company again. (Employment records)

10/13/93 John was terminated from Curtner for missing too much work. (Employment records)

1995 (approx) John's third child, Quinhoja Balentine, was born to Lissa Childress in Newport, AR. (Interviews with John Balentine and Angelina Watson)

1996 John had charges pending against him for carnal abuse after having a sexual relationship with a 15 year old girl in Newport. Although she stated that the relationship had been consensual, her parents insisted on filing a report. John also had charges pending against him for breaking into a woman's home, kidnapping her and robbing her. She escaped from him when he stopped at a convenience store. (Police reports)

1997 John moved to Amarillo, Texas. (Interview with John Balentine)

3/97 to 7/97 John worked for Ike's Detail in Amarillo, Texas. (Job application)

8/97 to 10/97 John worked as a fry cook and dishwasher at Applebee's in Amarillo. (Job application)

10/97 to 12/97 John worked as a cashier at Love's Country Stores in Amarillo. He was terminated after not showing up or calling in to work. (Employment records)

1997 John lived with Misty Caylor in Amarillo, Texas. John stated that they got along well and he helped her with her baby. John and Misty began to have problems when her brother, Mark Caylor, stayed with them and was using drugs in the house, as well as associating with others who used drugs. John did not like drugs and did not want the baby exposed to drugs. John and Misty began having problems and he moved out. There are allegations that John was abusive toward Misty. Mark Caylor began to threaten John's life. (Interviews with John Balentine, Angelique Allen, police records)

John was helpful to Angelique Allen, his brother, Freddie's common law wife, making repairs for her and helping her with her children. He was concerned that Mark Caylor might hurt Angelique or her children. (Interviews with John Balentine and Angelique Allen)

1/21/98 Mark Caylor, Kai Geyer and Steven Watson were shot and killed in Amarillo. (Amarillo PD records)

7/98 John was apprehended in Houston after a traffic stop. (Police reports)

1998 Clara Smith's home burned down. She moved into her former mother in law's house. (Interviews with Clara Smith and John Balentine)

6/11/99 John was sent to Texas death row after being found guilty and given the death penalty. (TDC records)